
**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

MODERN FONT APPLICATIONS LLC,

Plaintiff,

v.

**KELLI KRISTINA SMITH, dba CHICK-FIL-A AT CENTERVILLE FSU #3259;
and CHICK-FIL-A, Inc., a Georgia
corporation,**

Defendants.

**STIPULATED PATENT CASE
MANAGEMENT ORDER**

Case No. 2:19-cv-00211-TS-PMW

District Judge Ted Stewart

Chief Magistrate Judge Paul M. Warner

Pursuant to Fed. R. Civ P. 16(b), the Court received the Attorney Planning Report¹ filed by counsel. This Patent Case Management Order is based on patent case specific rules set forth at <http://www.utd.uscourts.gov/senior-judge-tena-campbell>. The Court schedules the following matters. The parties may not modify the times and deadlines set forth herein without the approval of the Court and on a showing of good cause pursuant to Fed. R. Civ. P. 6.

ALL DEADLINES ARE SET FOR 11:59 P.M. ON THE DATE INDICATED UNLESS EXPRESSLY STATED TO THE CONTRARY

THE FOLLOWING SCHEDULE IS BASED ON THE FILING BY DEFENDANT(S) OF AN ANSWER OR OTHER RESPONSE TO PLAINTIFF'S COMPLAINT ("ANSWER").

1.	PRELIMINARY MATTERS/DISCLOSURES	DATE
a.	Plaintiff's Accused Instrumentalities disclosures due under JCPR ² 3(A)	1 Week of ANSWER
b.	Parties' Rule 26(a)(1) initial disclosure due	60 Days of ANSWER
c.	Rule 26(f)(1) Conference held	May 15, 2019

¹ See docket no. 15.

² "JCPR" means the patent case specific rules set forth at <http://www.utd.uscourts.gov/senior-judge-tena-campbell>

d.	Attorney Planning Meeting Report and Proposed Scheduling Order submitted	Yes
e.	Plaintiff serves Preliminary Infringement Contentions under JCPR 3(B) and disclosures to be made “at the same time and as part” thereof under JCPR 4(B)-(C)	120 days of ANSWER
f.	Plaintiff’s Document Production Accompanying Preliminary Infringement Contentions under JCPR(4)(E)	120 days of ANSWER
g.	Defendant(s) Preliminary Accused Instrumentality Discovery Production under JCPR 4(A)(2)-(3)	60 days of disclosure of Accused Instrumentalities
h.	Plaintiff’s 30(b)(6) deposition(s) under JCPR(A)(4) may be taken after date that Plaintiff serves its Accused Instrumentalities disclosure and before the date it serves its Preliminary Infringement Contentions	Approximately 120 days of ANSWER
i.	Defendant serves Preliminary Invalidity Contentions under JCPR 5(A)	45 days after service of Preliminary Infringement Contentions
j.	Defendant’s Document Production Accompanying Preliminary Invalidity Contentions under JCPR(6)(A)	45 days after service of Preliminary Infringement Contentions
k.	Leave to make amendments to infringement and invalidity contentions must be made within 30 days after issuance of the Court’s Markman ruling	
2.	DISCOVERY LIMITATIONS - per side, not party	NUMBER
a.	Maximum number of depositions ³ by Plaintiff(s)	10
b.	Maximum number of depositions ⁴ by Defendant(s)	10

³ Excluding depositions of experts.

⁴ Excluding depositions of experts.

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| c. | Maximum number of hours for each deposition
(unless extended by agreement of parties) | 7 |
| d. | Maximum interrogatories ⁵ by any party to any party | Per Fed. R. Civ. P. |
| e. | Maximum requests for admissions by any party to any party | Per Fed. R. Civ. P. |
| f. | Maximum requests for production by any party to any party | Per Fed. R. Civ. P. |

The Parties shall handle discovery of electronically stored information as follows:

- g. As agreed by parties in Attorney Planning Meeting Report. The parties shall handle a claim of privilege or protection as trial preparation material asserted after production as follows: The parties agree that attorney-client privileged communications after the filing of the action need not be logged in any privilege log unless such communications relate to subject matter on which the attorney-client privilege or work product protection is waived. The parties further agree to use the Court's standard protective order pursuant to DUCivR 26-2 for all purposes until such time as the court enters any amended protective orders stipulated to by the parties.

DATE

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| h. | Completion of Claim Construction Discovery | 30 days after service
of Joint Claim
Construction and
Prehearing Statement |
| i. | Deadline to serve PCC written discovery: | TBD per Rule 16
conference PCC |
| j. | Close of PCC fact discovery: | TBD per Rule 16
conference PCC |
| k. | Disclosure of intent to rely on opinions of counsel and materials in support under JCPR 9(A) | 30 Days PCC ⁶ |

⁵ An interrogatory or multiple interrogatories seeking the basis of a party's affirmative defenses, infringement contentions, or invalidity contentions counts as one interrogatory regardless of the number of affirmative defenses alleged or the number of infringed or invalid claims alleged. A party may object to the time of discovery as set forth in JCPR.

⁶ "PCC" means after or "post" the date that claim construction order issues or court issues order stating that no terms will be construed).

1.	Defendant production of Opinion of Counsel - JCPR 9(B)-(C)	30 Days PCC
3.	AMENDMENT OF PLEADINGS/ADDING PARTIES⁷	DATE
a.	Last day to file motion to amend pleadings	3 months of ANSWER
b.	Last day to file motion to add parties	3 months of ANSWER
4.	CLAIM CONSTRUCTION PROCESS – JCPR 8	DATE
a.	Parties exchange proposed claim terms and phrase party contends should be construed by Court and identify any claim limitations party contends are governed by 35 U.S.C. § 112(6) – JCPR 8(A)(1)	10 days after service of Preliminary Invalidity Contentions
b.	Meet and Confer under JCPR 8(A)(2)-(3) to reach agreement on list of no more than 10 claim terms and/or phrases to be construed and regarding Joint Claim Construction and Prehearing Statement	10 days after service of claim terms to be construed
c.	Exchange preliminary proposed constructions of each claim term or phrase to be construed – JCPR 8(B)(1)	20 days after service of Terms and Phrases to be Construed
d.	Identification of intrinsic and extrinsic evidence on which a party intends to rely to support its claim construction contentions – JCPR 8(B)(2)	20 days after service of Terms and Phrases to be Construed
e.	Production of Summary of Claim Construction Witness Testimony – JCPR 8(B)(3)	20 days after service of Terms and Phrases to be Construed
f.	Meet and Confer to narrow claim construction issues and finalize preparation of a Joint Claim Construction and Prehearing Statement – JCPR 8(B)(4)	10 days after exchange of preliminary claim constructions

⁷ Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).

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| g. | Submission to Court of Joint Claim Construction and Prehearing Statement – JCPR 8(C) | 60 days after service of the Preliminary Invalidity Contentions |
| h. | Plaintiff’s Opening Claim Construction Brief – JCPR 8(E)(1) | 45 days after filing of the Joint Claim Construction and Prehearing Statement |
| i. | Defendant’s Responsive Claim Construction Brief – JCPR 8(E)(2) | 14 days after service of the Plaintiff’s opening claim construction brief |
| j. | Plaintiff’s Reply Claim Construction Brief – JCPR 8(E)(3) | 7 days after service of Defendant’s responsive claim construction brief |
| k. | Claim Construction Hearing ⁸ | TBD |

5. EXPERT DISCOVERY

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| a. | Parties bearing burden of proof | 5 Weeks PCC |
| b. | Counter reports | 9 Weeks PCC |
| c. | Close of expert discovery | 14 Weeks PCC |

6. DISPOSITIVE MOTIONS

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| a. | Deadline to file dispositive motions | TBD per Rule 16 conference PCC |
| b. | Deadline to file opposition to dispositive motions | TBD per Rule 16 conference PCC |
| c. | Deadline to file reply to dispositive motions filed | TBD per Rule 16 conference PCC |
| d. | | |

⁸ Parties should contact the Court to set the date for the Claim Construction Hearing

Deadline for filing partial or complete motions to exclude expert testimony

TBD per Rule 16 conference PCC

7. SETTLEMENT/ALTERNATIVE DISPUTE RESOLUTION/ OTHER PROCEEDINGS

DATE

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| a. | Likely to request referral to a Magistrate Judge for settlement conference: | No |
| b. | Likely to request referral to court-annexed arbitration: | No |
| c. | Likely to request referral to court-annexed mediation: | No |
| d. | Last day to seek stay pending reexamination or IPR | 6 months of ANSWER |
| e. | The parties will complete private mediation/arbitration by: | Not Applicable |
| f. | Evaluate case for Settlement/ADR on | Not Applicable |
| g. | Settlement probability: | Fair |

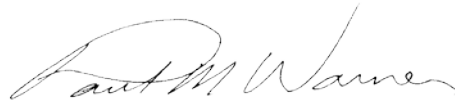
Plaintiff is directed to file a new scheduling order within 14 days of ruling on claim construction. The Court will set trial deadlines in that order or through a case management conference.

8. OTHER MATTERS

All Motions in Limine should be filed well in advance of the Final Pretrial Conference.

Signed this 23rd day of May, 2019

BY THE COURT:



PAUL M. WARNER
Chief United States Magistrate Judge

APPROVED AS TO FORM:

DATED: May 22, 2019

KUNZLER BEAN & ADAMSON, PC

/s/ Perry S. Clegg

Perry S. Clegg

*Attorney for Plaintiff,
Modern Font Applications LLC*

DATED: May 22, 2019

STOEL RIVES LLP

/s/ David L. Mortensen

David L. Mortensen

*Attorney for Defendant(s),
Kelli Kristina Smith, and
Chic-Fil-A, Inc.*